



FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: The Board of Governors of the Federal Reserve System (Board or Federal Reserve) is adopting a proposal to extend for three years all of the Financial Reports of Foreign Banking Organizations: the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y-7N), the Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y-7NS), and the mandatory Capital and Asset Report for Foreign Banking Organizations (FR Y-7Q); with revisions to the FR Y-7Q, effective December 31, 2016, except for three new FR Y-7Q items, which are effective March 31, 2018.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following information collection:

Report titles: Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, and Capital and Asset Report for Foreign Banking Organizations.

Agency form numbers: FR Y-7N, FR Y-7NS, and FR Y-7Q.

OMB control number: 7100-0125.

Frequency: Quarterly and annually.

Effective Dates: Reporting period ending on December 31, 2016, except for three new FR Y-7Q items, which are effective March 31, 2018.

Respondent type: Foreign banking organizations (FBOs).

Estimated annual reporting hours: FR Y-7N (quarterly): 1,170 hours; FR Y-7N (annual): 218 hours; FR Y-7NS: 40 hours; FR Y-7Q (quarterly): 1,632 hours; FR Y-7Q (annual): 48 hours.

Estimated average hours per response: FR Y-7N (quarterly): 6.8 hours; FR Y-7N (annual): 6.8 hours; FR Y-7NS: 1 hour; FR Y-7Q (quarterly): 3 hours; FR Y-7Q (annual): 1.5 hours.

Number of respondents: FR Y-7N (quarterly): 43; FR Y-7N (annual): 32; FR Y-7NS: 40; FR Y-7Q (quarterly): 136; FR Y-7Q (annual): 32.

Legal authorization and confidentiality: This information collection is mandatory pursuant to section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) and sections 8(c) and 13 of the International Banking Act (12 U.S.C. 3106(c) and 3108)). Section 165 of the Dodd-Frank Act (12 U.S.C. 5365) directs the Federal Reserve to establish enhanced prudential standards for certain companies, including certain FBOs. Information disclosed in these reports is collected as part of the Board's supervisory process and may be accorded confidential treatment under Exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)), but information that is required to be disclosed publicly is generally not considered confidential. However, individual respondents may request that certain data be protected pursuant to Exemptions 4 and 6

(5 U.S.C. 552(b)(4) & (6)) of FOIA, where such data relates to trade secrets and financial information, or to personal information, respectively. The applicability of these exemptions would have to be determined on a case-by-case basis.

Abstract: The FR Y-7N and FR Y-7NS collect financial information for non-functionally regulated U.S. nonbank subsidiaries held by FBOs other than through a U.S. bank holding company (BHC), FHC, or U.S. bank. FBOs file the FR Y-7N quarterly or annually or the FR Y-7NS annually predominantly based on asset size thresholds. The FR Y-7Q collects consolidated regulatory capital information from all FBOs either quarterly or annually. The FR Y-7Q is filed quarterly by FBOs that have effectively elected to become U.S. financial holding companies (FHCs) and by FBOs that have total consolidated assets of \$50 billion or more, regardless of FHC status. All other FBOs file the FR Y-7Q annually.

Current Actions: On April 4, 2016, the Federal Reserve published a notice in the *Federal Register* requesting public comment for 60 days on the extension, with revision, of the FR Y-7N, FR Y-7NS, and FR Y-7Q.¹ The comment period for this notice expired on June 3, 2016. In general, the commenters supported the proposed changes, but requested clarification on the home country capital adequacy certification requirement and the confidentiality and disclosure requirements for the proposed home country capital information. The Federal Reserve previously proposed to collect fourteen new data items to monitor compliance with enhanced prudential standards for FBOs adopted pursuant to Subparts N and O of Regulation YY. As discussed below, as a result of commenters' general concerns regarding confidentiality, such as

¹ 81 FR 19179 (April 4, 2016).

with respect to non-public supervisory capital buffers, the Federal Reserve now proposes to collect twelve new data items.

On February 18, 2014, the Board approved a final rule, pursuant to section 165 of the Dodd-Frank Act, that requires an FBO with total consolidated assets of \$50 billion or more to certify to the Board that it meets capital adequacy standards on a consolidated basis, as established by its home-country supervisor, that are consistent with the regulatory capital framework published by the Basel Committee on Banking Supervision.² This requirement was intended to help ensure that the consolidated capital base supporting the activities of U.S. branches and agencies remains strong, and to lessen the degree to which weaknesses at the consolidated foreign parent could undermine the financial strength of its U.S. operations. The following new data items would be used to determine whether an FBO with total consolidated assets of \$50 billion or more meets capital adequacy standards at the consolidated level that are consistent with the Basel Capital Framework.

Part 1B (new section for FBOs >\$50 billion in total assets)

The proposal would require an FBOs with total consolidated assets of \$50 billion or more to complete a new section, Part 1B, effective December 31, 2016 (with three of the proposed

² See 12 CFR part 252. Regulation YY provides that home country capital standards that are consistent with the Basel Capital Framework include all minimum risk-based capital ratios, any minimum leverage ratio, and all restrictions based on any applicable capital buffers set forth in “Basel III: A global regulatory framework for more resilient banks and banking systems.” Basel III was published in December 2010 and revised in June 2011. The text is available at <http://www.bis.org/publ/bcbs189.htm>.

items effective March 31, 2018). Proposed Part 1B would contain 12 items related to home country regulatory capital ratios that would be reported on a quarterly basis.³ The value of each of these items would be calculated on a consolidated basis according to the methodologies established by the FBO's home-country supervisor that are consistent with the Basel Capital Framework, as defined in Regulation YY.⁴ If the home-country supervisor has not established capital adequacy standards consistent with the Basel Capital Framework, the value of these items would be calculated on a pro-forma basis as if the FBO were subject to such standards. The proposed line items that would be effective December 31, 2016, include:

- (1) Common equity tier 1 capital,
- (2) Additional tier 1 capital,
- (3) Tier 1 capital (sum of items 1 and 2),
- (4) Tier 2 capital,
- (5) Total risk-based capital (sum of items 3 and 4),
- (6) Capital conservation buffer,
- (7) Countercyclical capital buffer,
- (8) GSIB buffer,
- (9) Compliance with restrictions on capital distributions and discretionary bonus payments associated with a capital buffer.

The proposed line items that would be effective March 31, 2018, include:

³ The Board had initially proposed to collect two additional line items: the Pillar II buffer and any "other" applicable capital buffer; however, in response to comments on the proposal, the Board no longer proposes to collect this information.

⁴ See 12 CFR Part 252.143 and 252.154.

- (10) Home country capital measure used in the numerator of the leverage ratio as set forth in the Basel Capital Framework,
- (11) Home country exposure measure used in the denominator of the leverage ratio as set forth in the Basel Capital Framework,
- (12) Minimum home country leverage ratio (if different from the leverage ratio in the Basel Capital Framework, as applicable).

Part 1A (renaming existing Part 1 section applicable to all FBOs)

As noted above, Part 1A of the current FR Y-7Q form, which applies to all FBOs, collects tier 1 capital, total risk-based capital, risk-weighted assets, total consolidated assets and total combined assets of U.S. operations, net of intercompany balances and transactions between U.S. domiciled affiliates, branches, and agencies, and total U.S. non-branch assets. While the Federal Reserve does not propose to change existing items reported in Part 1A of the FR Y-7Q, the proposal would modify the instructions to clarify that an FBO would be required to report Tier 1 capital and Total risk-based capital only on Part 1B, if the FBO's home country methodologies are consistent with the Basel Capital Framework.

The instructions would also clarify the reporting frequency of Part 1, in light of the new proposed section. Specifically, FBOs with total consolidated assets of less than \$50 billion and that are not FHCs would only file Part 1A on an annual basis. FBOs who have elected to become FHCs and do not have \$50 billion or more in total consolidated assets will file Part 1A on a

quarterly basis. FBOs with total consolidated assets of \$50 billion or more would complete both Part 1A and Part 1B on a quarterly basis.

The Federal Reserve recommends no changes to the reporting frequency of the FR Y-7N/NS and FR Y-7Q. The current reporting frequencies provide adequate timely data to meet the analytical and supervisory needs of the Federal Reserve.

Detailed Discussion of Public Comments

1. Certification Requirement

A commenter requested guidance on whether an FBO would be deemed to satisfy the requirement to report and certify compliance with its home country capital adequacy requirements through its FR Y-7Q report. In addition, the commenter asked the Board to confirm the as of date and frequency of the certification.

Regulation YY requires an FBO to report compliance with capital adequacy measures that are consistent with the Basel Capital Framework (as defined in 12 CFR 252.143(a) and § 252.154(a)) concurrently with filing the FR Y-7Q; however it does not specify the frequency or the as of date for an FBO's certification of compliance with its home country capital requirements. The Board confirms that an FBO's completion of the FR Y-7Q on a quarterly basis would satisfy both the requirement to report and the requirement to certify to the Board its compliance with capital adequacy measures that are consistent with the Basel Capital

Framework. If an FBO is unable to report that it is in compliance with such capital adequacy measures, the Board may impose requirements, conditions, and restrictions relating to the U.S. operations of the FBO.⁵

2. Confidentiality Determinations

Commenters raised concerns regarding the potential confidentiality of two items required to be reported in the proposal that may be considered non-public supervisory capital buffers by an FBO's home country supervisor: the Pillar II buffer and any "other" applicable capital buffer. In response to these concerns, the Board has reviewed the information it proposed to collect on the FR Y-7Q and has revised the proposal to eliminate these two items from the information collection and only collect 12 new data items, each of which are expected to be disclosed publicly under the Basel Capital Framework, to monitor compliance with enhanced prudential standards for FBOs in Regulation YY. These 12 new data items would include, among other items, information relating to the capital conservation buffer, countercyclical capital buffer, and global systemically important banking organization capital buffer.

A commenter also requested that the Board expand the confidential treatment for certain of the proposed new items. The proposal stated that the Board would determine confidentiality on the proposed items reported on the FR Y-7Q on a case-by-case basis. However, the proposal noted that some jurisdictions may treat the information collected as confidential on a blanket basis on the grounds that a more selective confidential treatment could signal an FBO's financial

⁵ See 12 CFR part 252.143(c) and 252.154(c).

strength or weakness and could thereby cause substantial competitive harm. Therefore, the proposal invited comment on whether these items should qualify for confidential treatment in all cases, such that treating this information as confidential on a blanket basis would be appropriate.

In response to the proposal, a commenter suggested the following modifications to the Board's proposed "case-by-case" approach: (1) where a home country supervisor treats an item included in Part 1B as confidential on a blanket basis, the Board likewise should extend blanket confidential treatment of that item to all FBOs supervised by the home country authority; and (2) where a home country supervisor treats an item included in Part 1B as confidential on a case-by-case basis, the Board should automatically treat this item as confidential for any FBO whose home country supervisor has extended such treatment.

As discussed above, in response to commenters' general concerns regarding confidentiality, the Board has revised the FR Y-7Q to collect only information that is expected to be disclosed under the Basel Capital Framework, and therefore will be public and not considered confidential. The Board further notes that information disclosed in these reports would be collected as part of the Board's supervisory process and may be accorded confidential treatment under Exemption 8 of FOIA. However, individual respondents may request that certain data be protected pursuant to Exemptions 4 and 6 of FOIA, where such data relates to trade secrets and financial information, or to personal information, respectively. The applicability of these exemptions will be determined on a case-by-case basis.

In addition, the proposed modification to the “case-by-case” approach set forth by one commenter would require the Federal Reserve to determine confidentiality for all FBOs supervised by a particular home-country authority on a country-by-country basis. An FBO seeking confidential treatment for any information reported on the FR Y-7Q must file a request pursuant to Exemption 4 of FOIA and state in reasonable detail the facts supporting the request and the legal justification for the request. Because the FBO is best suited to describe its home country supervisor’s confidential treatment of information, the Federal Reserve relies on information provided by the FBO in making its determination of whether the release of that information would cause the FBO substantial competitive harm. In addition, the Federal Reserve may need additional information to support such a determination, and the home country supervisor’s treatment of the information alone may not meet the standard for confidential treatment in Exemption 4 of FOIA in all cases. Accordingly, as proposed, the Federal Reserve would grant an FBO’s request for confidential status for information reported on the FR Y-7Q, pursuant to Exemption 4 of FOIA, only on a case-by-case basis.

3. Prohibited Items

A commenter also requested that the Board confirm that an FBO would not be required to report any item where applicable home country law prohibits the FBO from disclosing such item to any person, except an appropriate home country supervisor, regardless of whether the other person would agree to keep such information strictly confidential.

The Board is authorized by law to collect information from an FBO regarding its financial condition and, in submitting to the Board's jurisdiction, an FBO is required to provide the Board with adequate assurances that information will be made available to the Board on the operations or activities of the FBO and any of its affiliates that the Board deems necessary to determine and enforce compliance with applicable federal banking statutes, including information on its consolidated regulatory capital information. Therefore, an FBO is required to provide all of the information requested on the FR Y-7Q report. However, there could be infrequent instances that may raise questions about an FBO's ability to report a particular item on the FR Y-7Q if home country law prohibits an FBO from reporting that information to the Board, and, in those limited circumstances, the Board may consider an FBO's request not to report that information on the FR Y-7Q, on a case-by-case basis.

Board of Governors of the Federal Reserve System, December 2, 2016.

Robert deV. Frierson

Secretary of the Board.

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